



## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB-2020-0011; T.D. TTB-170; Ref: Notice No. 196]**

**RIN: 1513-AC63**

#### **Establishment of the Goose Gap Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 8,129-acre “Goose Gap” viticultural area in Benton County, Washington. The viticultural area is located entirely within the existing Yakima Valley and Columbia Valley viticultural areas. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background on Viticultural Areas**

###### *TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations

for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

#### *Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is

neither an approval nor an endorsement by TTB of the wine produced in that area.

### *Requirements*

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and

- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

### **Goose Gap Petition**

TTB received a petition from Alan Busacca, on behalf of the Goose Gap Wine Grower's Association, proposing to establish the "Goose Gap" AVA. The proposed AVA is located in Benton County, Washington, and lies entirely within the established Yakima Valley (27 CFR 9.69) and Columbia Valley (27 CFR 9.74) AVAs and does not overlap any other existing or proposed AVA. Within the approximately 8,129-acre proposed AVA, there are 2 commercial vineyards which cover a total of more than 1,800 acres, as well as 1 winery. The distinguishing features of the proposed Goose Gap AVA are its geology and soils.

According to the petition, the proposed AVA is part of a series of folded hills and valleys collectively known as the Yakima Fold Belt, which runs from the Beezely Hills in the north to the Horse Heaven Hills in the south. The proposed Goose Gap AVA is comprised of two geographic features with similar viticultural conditions: Goose Gap and the adjoining Goose Hill. Goose Gap and Goose Hill together form part of a single folded and faulted block of the Columbia River Basalt. Goose Gap is formed from a syncline, a down-folded arch in the bedrock that creates a saddle-like shape, whereas Goose Hill is formed from an anticline, an arch-like structure of basalt that bends upwards to form a ridge and slopes. Goose Gap and Goose Hill both have an east-west orientation, south and southwest slopes that are too steep for planting, and plantable north and northeast slopes. By contrast, the petition states that all of the ridges and hills in the region surrounding the proposed AVA have a northwest-southeast orientation, plantable south and southwest slopes, and north and northeast

slopes that are too steep for vineyards. Because vineyards in the proposed Goose Gap AVA are planted on north-and northeast-facing slopes, they receive less solar radiation than nearby vineyards planted on south- and southwest-facing slopes. As a result, grapes grown in the proposed AVA typically ripen later than the same varieties grown in the neighboring Red Mountain AVA (27 CFR 9.167), which is to the northwest of the proposed AVA.

Five main soil series comprise almost 95 percent of the soils in the proposed Goose Gap AVA: Warden, Shano, Kiona, Hezel, and Prosser. The Warden series soils, which make up 65 percent of the proposed AVA, consist of wind-blown loess over layered or stratified silts and fine sands, and have rooting depths of six feet or more with no hardpans or other root-restrictive layers. Shano soils constitute seven percent of the proposed AVA and are also formed from wind-blown loess and are deep soils with low levels of organic material. Kiona soils comprise 9 percent of the proposed AVA and are formed in loess and rubble from fractured basalt. Hezel soils make up seven percent of the proposed AVA and are made of windblown sand over stratified silts and sands. Finally, Prosser soils comprise five percent of the proposed AVA and derive from loess mixed with flood sediments. Prosser soils are generally shallow and overlay fractured basalt bedrock. In comparison, Warden soils are less common in the established Red Mountain AVA to the northwest of the proposed AVA, the Horse Heaven Hills AVA (27 CFR 9.188) to the southwest of the proposed AVA, and in the established Yakima Valley AVA that encompasses the proposed AVA. Additionally, Scooteney soils comprise almost 11 percent of soils in the established Red Mountain AVA, and Ritzville soils comprise almost 30 percent of the soils in the established Horse Heaven Hills AVA, yet both soil series are completely absent from the proposed Goose Gap AVA.

## **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 196 in the **Federal Register** on October 23, 2020 (85 FR 67469), proposing to establish the Goose Gap AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 196.

In Notice No. 196, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, given the proposed AVA's location within the Columbia Valley and Yakima Valley AVAs, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the established AVAs. TTB also requested comments on whether the geographic features of the proposed AVA are so distinguishable from the Columbia Valley and Yakima Valley AVAs that the proposed Goose Gap AVA should no longer be part of these established AVAs. The comment period closed December 22, 2020.

In response to Notice No. 196, TTB received one comment. The comment, from a local vineyard owner, supported the proposed Goose Gap AVA. TTB did not receive any comments regarding the location of the proposed AVA within the established Columbia Valley and Yakima Valley AVAs.

## **TTB Determination**

After careful review of the petition and the comments received in response to Notice No. 196, TTB finds that the evidence provided by the petitioner supports the establishment of the Goose Gap AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Goose Gap” AVA in Benton County, Washington, effective 30 days from the publication date of this document.

TTB has also determined that the Goose Gap AVA will remain part of the established Columbia Valley AVA. As discussed in Notice No. 196, the Goose Gap AVA shares some broad characteristics with the established AVA. For example, elevations within the Goose Gap AVA and the Columbia Valley AVA are generally below 2,000 feet. However, the Goose Gap AVA does have some features that differentiate it from the Columbia Valley AVA. For instance, the Goose Gap AVA encompasses a single folded and faulted block of Columbia River basalt, characterized by the Goose Gap syncline and the adjoining Goose Hill anticline. The Columbia Valley AVA, by contrast, consists of multiple ridges, hills, and valleys within a single broad basin.

Finally, TTB has also determined that the Goose Gap AVA will remain part of the established Yakima Valley AVA. The two AVAs share soils that are a combination of glacial-flood and windborne soils, including the Warden soil series, and rest on Columbia River basalt. However, the Goose Gap AVA is unique among the hills of the Yakima Valley AVA in that it has an east-west alignment and plantable north and northeast slopes. Additionally, a major soil series of the Yakima Valley AVA is the Scooteney–Starbuck soil association.

However, within the Goose Gap AVA, Scooteney soils are absent, and Starbuck soils comprise less than 2 percent of the soils.

### **Boundary Description**

See the narrative description of the boundary of the Goose Gap AVA in the regulatory text published at the end of this final rule.

### **Maps**

The petitioners provided the required maps, and they are listed below in the regulatory text. The Goose Gap AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Goose Gap AVA, its name, "Goose Gap," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the



TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name “Goose Gap” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Goose Gap AVA will not affect the existing Columbia Valley or Yakima Valley AVAs, and any bottlers using “Columbia Valley” or “Yakima Valley” as an appellation of origin or in a brand name for wines made from grapes grown within the Columbia Valley or Yakima Valley AVAs will not be affected by the establishment of this new AVA. The establishment of the Goose Gap AVA will allow vintners to use “Goose Gap”, “Yakima Valley,” and “Columbia Valley” as appellations of origin for wines made primarily from grapes grown within the Goose Gap AVA if the wines meet the eligibility requirements for the appellation.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

## **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

## **List of Subjects in 27 CFR Part 9**

Wine.

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

### **Subpart C—Approved American Viticultural Areas**

2. Subpart C is amended by adding § 9.277 to read as follows:

#### **§ 9.277 Goose Gap.**

(a) *Name*. The name of the viticultural area described in this section is “Goose Gap”. For purposes of part 4 of this chapter, “Goose Gap” is a term of viticultural significance.

(b) *Approved maps*. The 4 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Goose Gap viticultural area are titled:

- (1) Benton City, WA, 2017;
- (2) Richland, WA, 2017;
- (3) Badger Mountain, WA, 2017; and
- (4) Webber Canyon, WA, 2017.

(c) *Boundary.* The Goose Gap viticultural area is located in Benton County, Washington. The boundary of the Goose Gap viticultural area is as described in paragraphs (c)(1) through (12) of this section:

(1) The beginning point is on the Benton City map at the intersection of Sections 10, 11, 15, and 14, T9N/R27E. From the beginning point, proceed southwesterly in a straight line for approximately 250 feet to the 700-foot elevation contour in Section 15, T9N/R27E; then

(2) Proceed southwesterly along the 700-ft elevation contour to its westernmost point in Section 15, T9N/R27E; then

(3) Proceed southwesterly in a straight line to intersection of the 700-foot elevation contour and an unnamed intermittent stream in Section 16, T9N/R27E; then

(4) Proceed southwesterly along the unnamed intermittent stream to its intersection with the 600-foot elevation contour in Section 20, T9N/R27E; then

(5) Proceed south, then southwesterly along the 600-foot elevation contour, crossing onto the Webber Canyon map, for a total of approximately 3 miles to the intersection of the 600-foot elevation contour and the western boundary of Section 27, T9N/R27E; then

(6) Proceed south along the western boundary of Section 27 to its intersection with the railroad tracks; then

(7) Proceed southeasterly along the railroad tracks, crossing onto the Badger Mountain map, and continuing along the railroad tracks for a total of approximately 3 miles to the intersection of the railroad tracks with Dallas Road in Section 36, T9N/R27E; then

(8) Proceed east, then north along Dallas Road for approximately 2 miles to its intersection with Interstate 182 in Section 20, T9N/R28E; then

(9) Proceed west along Interstate 182 and onto the ramp to Interstate 82, and continue northwesterly along Interstate 82, crossing over the southwestern corner of the Richland map and onto the Benton City map, to the intersection of Interstate 82 and an intermittent stream in Section 13, T9N/R27E; then

(10) Proceed northwesterly along the intermittent stream to its intersection with E. Kennedy Road NE in Section 13, T9N/R27E; then

(11) Proceed north in a straight line to the northern boundary of Section 13, T9N/R27E; then

(12) Proceed westerly along the northern boundaries of Sections 13 and 14, returning to the beginning point.

Signed: June 21, 2021.

**Mary G. Ryan,**

*Administrator.*

Approved: June 21, 2021.

**Timothy E. Skud,**

*Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).*

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